

REMARKS

Entry of the above amendments is respectfully requested. Upon entry, this application will contain claims 54-60, 62 and 66-67 pending and under consideration. Applicant believes that these amendments and the following remarks address each of the outstanding rejections such that the application is in condition for allowance. Action to that end is solicited.

Rejection under 35 U.S.C. §103

Claims 54-60 and 62 stand rejected under 35 U.S.C. §103 as being unpatentable over Badylak et al. (U.S. Patent No. 6,099,567) in view of Stinson et al. (U.S. Patent Application No. 2004/0111149). Applicants respectfully traverse. The combination of Stinson and Badylak does not teach or suggest the subject matter of claim 54.

Stinson teaches bioabsorbable-radiopaque strands. These strands are woven through or discretely attached to stents and grafts.

In paragraph [0065] of his published application, Stinson explicitly states that “the markers of the invention can be segregated into types: threaded and discrete bioabsorbable markers.” He goes on to state in paragraph [0065]:

A threaded marker is generally a strand or strands of material having radiopacity which is incorporated within the implantable device by interweaving or interbraiding the strand through the struts or wires of the endoprosthesis. A discrete bioabsorbable-radiopaque marker is generally a bioabsorbable-radiopaque polymer strand of material which is securely attached to a localized region of the implantable device and does not significantly extend over a large portion of the device.

The two types of markers are evident from Stinson's Figures 5 and 11 which are reproduced below (with emphasis placed on the strands 14).

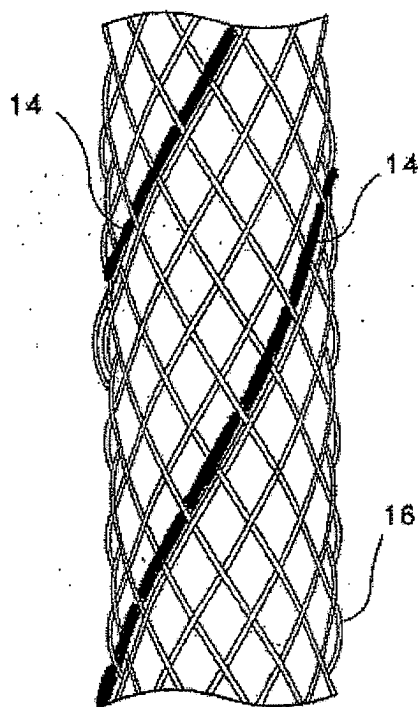


FIG-5

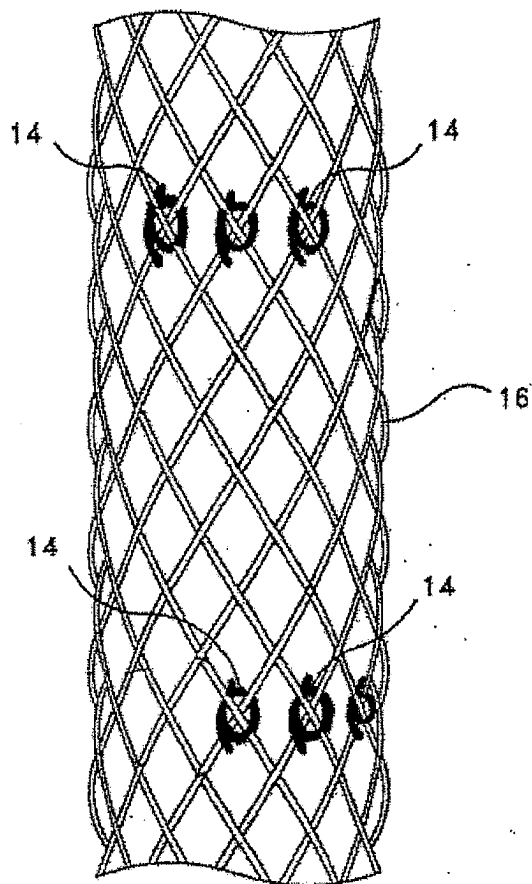


FIG-11

It is clear that the idea behind Stinson is to discretely attach a radiopaque thread to a graft, or weave it through a graft. There is simply no teaching or suggestion whatsoever to dispose a radiopaque thread in between strips or layers of a graft material. Even assuming that one skilled in the art had consulted Stinson at the time the invention was made and had wanted to make the Badylak graft radiopaque, at most that person would have discretely attached a radiopaque thread to the Badylak graft, or woven it through the graft as shown above. Only through the impermissible use of hindsight can one conclude that the skilled

artisan would have thought to dispose a radiopaque marker in between the strips of material.

Withdrawal of this rejection is therefore solicited.

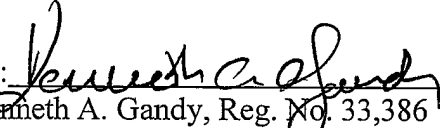
Claims 55-60 and 62 each depend from claim 54, and thus are believed to be patentable for at least the same reasons. Withdrawal of these rejections is also solicited.

New claims 66-67 are also patentable for at least the same reasons. Support for claims 66-67 can be found throughout the original disclosure including, for example, at paragraph [0091] of the published application.

In view of the foregoing amendments and remarks, reconsideration of this application is requested. Applicant believes it is entitled to patent protection for claims 54-60, 62 and 66-67.

In the event that the foregoing amendments and remarks are deemed insufficient to overcome all outstanding rejections, Applicants requests that the Examiner please telephone the undersigned attorney so that the undersigned attorney can be afforded an opportunity to address any outstanding issue in an interview.

Respectfully submitted,

By: 
Kenneth A. Gandy, Reg. No. 33,386
Woodard, Emhardt, Moriarty
McNett & Henry LLP
111 Monument Circle, Suite 3700
Indianapolis, Indiana 46204-5137
(317) 634-3456